

CV 15 - 3389

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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TAMIKA STEWART and BERNARD WASHINGTON,

Plaintiffs,

COMPLAINT

U.S. DISTRICT COURT
EASTERN DISTRICT
OF NEW YORK

-against-

Docket No.

THE CITY OF NEW YORK, THE NEW YORK CITY
POLICE DEPARTMENT, HON. WILLIAM BRATTON,
Commissioner of the New York City Police Department,
POLICE OFFICER AVINASH SURAJBALI (Shield No.
30256, Assigned to the 75th Precinct on March 14, 2014),
and POLICE OFFICERS JOHN DOES Nos. "1" to "10"
(Actual Names Unknown, intended to be the Police
Officers Assigned to the 75th Precinct between March
10-14, 2014 and engaged in the arrest of the Plaintiff
Bernard Washington),

THE PLAINTIFF
DEMANDS TRIAL BY
JURY ON ALL ISSUES

MAUSKOPF, J.

REYES, M.J.

Defendants.

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The Plaintiffs, Tamika Stewart and Bernard Washington, by their undersigned attorney,
Matthew A. Kaufman, Esq., do state and say as and for their Complaint:

JURISDICTION

1. The jurisdiction of this Court is invoked by the Plaintiff pursuant to Title 28 of the United States Code, Sections 1331, 1343(3) & (4) and 1367.
2. Venue is properly laid in the Eastern District of New York, 28 U.S.C. §1391(b):
 - a. The claims initially arose in this District; and,
 - b. The Plaintiffs reside in this District.

JURY DEMAND

3. The Plaintiffs demand a trial by jury on all issues pursuant to the Seventh Amendment to the United States Constitution and Fed. R. Civ. P. 38.

NATURE OF PROCEEDINGS

4. This is a proceeding for compensatory and punitive damages owing to the Plaintiffs as a result of violations of Civil Rights under the Fourth and Fourteenth Amendments to the Constitution of the United States and under Federal law, particularly Title 42 of the United States Code, Section 1983. Supplemental claims are also asserted against Defendants pursuant to 28 U.S.C. § 1367.

PARTIES

5. The Plaintiff, Tamika Stewart is a resident of Kings County, City and State of New York.
6. The Plaintiff, Bernard Washington is a resident of Kings County, City and State of New York.
7. The Plaintiff, Tamika Stewart is of African-American descent with dark skin.
8. The Plaintiff, Bernard Washington is of African-American descent with dark skin.
9. Defendant City of New York [hereinafter referred to as "City"]:
 - a. At all times material hereto is a Municipal Corporation, duly formed and created pursuant to the laws and statutes of the State of New York.
 - b. At all times material hereto, Defendant City, by its agents, servants and employees, as well as by Defendant New York City Police Department [hereinafter "NYPD"] was responsible for the training and instruction of individuals employed by the NYPD.
10. Defendant William Bratton is the Commissioner of Defendant NYPD [hereinafter referred to as "Bratton"] and is sued here in his representative capacity as the Commissioner of Defendant NYPD.

11. Defendant Police Officer Avinash Surajbali at all times material hereto, is a Police Officer in the employ of Defendants City's and/or NYPD and was assigned shield number 30256 and assigned to the 75th Precinct [hereinafter referred to as "Surajbali"].
12. At all times material herein, Defendants Police Officers John Doe Nos. "1" to "10" (Actual Names Unknown), who, upon information and belief were members of the New York Police Department, assigned to the 75th Precinct between March 10 through 14, 2014 and who were engaged in the entry of the Plaintiffs' apartment and arrest at the Plaintiff, Bernard Washington on March 14, 2014.
13. Hereinafter, Defendants Police Officer "John Does Nos. '1' through '10'" may be collectively referred to as the "Defendant Police Officers."
14. The Plaintiff has complied with all conditions precedent under New York Law:
 - a. On April 29, 2014, the Plaintiff Tamika Stewart served and filed a Notice of Claim upon Defendants in full compliance with Section 50-e of the N.Y. General Municipal Law, **Exhibit "A"**;
 - b. On May 15, 2015, the Supreme Court of the State of New York, Kings County (Hon. Lara J. Genovesi, J.) granted the Plaintiff Tamika Stewart leave:

"to file an amended notice of claim to change the accident date from 3/10/14 to 3/14/14"

Exhibit "B";
 - c. On June 10, 2015, the Plaintiff Tamika Stewart served and filed an Amended Notice of Claim upon Defendants in full compliance with Section 50-e of the N.Y. General Municipal Law and the May 15, 2015 Court Order, **Exhibit "C"**;

- d. On April 29, 2014, the Plaintiff Bernard Washington served and filed a Notice of Claim upon Defendants in full compliance with Section 50-e of the N.Y. General Municipal Law concerning a claim, **Exhibit "D"**;
 - e. Prior to the commencement of this action at least 30 days have elapsed since the service of the said Notice of Claim pursuant N.Y. General Municipal Law § 50-e, and the adjustment or payment has been neglected and/or refused.
 - f. The Supplemental State claims in this action are timely commenced within one-year and 90-days after the happening of the events herein pursuant to N.Y. General Municipal Law Section § 50-i.
15. Defendant Bratton is and was at all times responsible for the policies, practices and/or customs of Defendant NYPD, a municipal agency of Defendant City.
- Defendant Bratton is and was at all times relevant herein, ultimately responsible for the hiring, screening, training, retention, supervision, discipline, counseling and control of the Police Officers under his command who are or were employed by Defendants City and NYPD, including the Defendants Police Officers herein. He is sued in his official capacity as a policy maker.
16. Defendant City is responsible, *inter alia*, for the management, administration, conduct and supervision of all personnel employed by Defendant NYPD to protect the safety of the public and the property of the public, such as the Plaintiffs herein.
17. Each and every act of Defendants alleged herein was done by Defendants, and each of them as individuals, or through their employees, servants and/or agents, under color and authority of the laws, statutes, ordinances, customs and usages of the State of New York, the United States of America, and under their offices with Defendant City.

18. All of the acts of the individual Defendants alleged herein were done while acting within the scope of their employment with Defendants City and/or NYPD.
19. All of the acts of the individual Defendants alleged herein were done while acting in furtherance of their employment by Defendant City and/or NYPD.

BACKGROUND FACTUAL ALLEGATIONS

20. At all times material hereto, the Plaintiff, Tamika Stewart, resided in the County of Kings, City and State of New York.
21. At all times material hereto, the Plaintiff, Bernard Washington resided in the County of Kings, City and State of New York.
22. At all times material herein, including March 14, 2014, the Plaintiff, Tamika Stewart, was a tenant of the premises known as Apartment 4B, 55 Malta Street, Brooklyn, New York [hereinafter referred to as "Apartment 4B"] pursuant to a rental agreement made November 4, 2012 between the Plaintiff, Tamika Stewart and the owner of the premises.
23. At all times material herein, including in and about March, 2014, the Plaintiff, Bernard Washington, would stay and reside for periods of time at Apartment 4B with the permission and consent of the Plaintiff, Tamika Stewart.
24. In and about March, 2014, the Plaintiff, Bernard Washington, was lawfully present and at times resided at Apartment 4B with his two children, who resided in Apartment 4B with their mother, the Plaintiff, Tamika Stewart.

Stalking by Shehee

25. In March, 2014, Dominique Shehee [hereinafter, "Shehee"], a resident of the County of Queens, City and State of New York, a former paramour of the Plaintiff Bernard Washington, had been stalking and harassing the Plaintiff Bernard Washington in and around the at 55 Malta Street, Brooklyn, New York residence in March, 2014.
26. Upon information and belief, on or about March 10, 2014, Shehee made false statements to Defendant NYPD and unknown members of Defendant NYPD concerning purported conduct by the Plaintiff, Bernard Washington, which these defendants, including the Defendant Police Officers knew to be false, or should have known to be false.
27. On or after March 10, 2014, the Plaintiff, Bernard Washington communicated with Defendant Police Officer John Doe No. "1", actual name unknown, concerning conduct and claims made by "Shehee."
28. On or about March 13, 2014, the Plaintiff, Bernard Washington contacted the 75th Precinct in order to follow-up on his earlier conversation he had on March 10, 2014 with Defendant Police Officer John Doe No. "1", at which time he spoke to another person, who transferred his call to another person who represented himself to the Plaintiff, Bernard Washington as a member of Defendant NYPD hereinafter referred to as Defendant Police Officer John Doe No. "2."
 - a. Defendant Police Officer John Doe No. "2" identified himself as the detective who was handling a complaint by "Shehee."

- b. The Plaintiff, Bernard Washington offered to come to the 75th Precinct that day to meet Defendant Police Officer John Doe No. “2.”
- c. Defendant Police Officer John Doe No. “2” told the Plaintiff, Bernard Washington not to come into the 75th Precinct that day, but to:

“Come in Monday and enjoy the weekend.”
- d. Based on the representations and instructions of Defendant Police Officer John Doe No. “2,” the Plaintiff, Bernard Washington did not go to the 75th Precinct on March 13, 2014.

Arrest of the Plaintiff, Bernard Washington

- 29. On or about March 14, 2014, the Plaintiff, Bernard Washington was lawfully present, staying and residing at Apartment 4B, when he heard a knock at the entrance door to the apartment.
 - a. The Plaintiff, Bernard Washington responded to the knocking by asking who was at the door.
 - b. On the other side of the door to Apartment 4B, a voice responded to the Plaintiff, Bernard Washington, identifying himself the “super.”
 - c. The Plaintiff, Bernard Washington, looked through the “eye-hole” but was apparently being covered by something obstructing his ability to see anything on the other side of the door.
 - d. The Plaintiff, Bernard Washington slowly opened Apartment 4B entrance door with the “chain lock” in place in order to try and ascertain the identity of the person or persons on the other side of the door.
- 30. Without warning, Defendant “Surajbali” along with another uniformed police officer, Defendant Police Officer John Doe No. “3” [hereinafter jointly and collectively referred to as the “Defendant Arresting Officers”].

31. Defendant Arresting Officers burst into Apartment 4B, breaking the locks on the apartment door, damaging the door's hinges and door itself by forcing the door open with a metal bar.
 - a. Defendant Arresting Officers entered Apartment 4B without the consent or permission of either Plaintiff, including the Plaintiff, Bernard Washington;
 - b. Defendant Arresting Officers never identified themselves as members of Defendant NYPD prior to their forced entry into Apartment 4B.
 - c. Defendant Arresting Officers never requested permission to enter into Apartment 4B prior to their forced entry into Apartment 4B; and,
 - d. Defendant Arresting Officers broke and damaged the locks, hinges and physical door to Apartment 4B without the consent or permission of either Plaintiff, including the Plaintiff, Bernard Washington.
32. Once inside Apartment 4B, Defendants "Surajbali" and Police Officer John Doe No. "3" grabbed the Plaintiff, Bernard Washington, and violently threw him to the floor of Apartment 4B.
33. While the Plaintiff, Bernard Washington was on the floor, Defendants "Surajbali" and Police Officer John Doe No. "3" violently pulled the Plaintiff, Bernard Washington's arms, placing handcuffs tightly around his wrists so as to cause this Plaintiff to suffer significant pain.
34. The Plaintiff, Bernard Washington asked Defendant Arresting Officers why he was being arrested.
35. Defendant Arresting Officers did not advise the Plaintiff, Bernard Washington's question as to why he was being arrested.

36. The Plaintiff, Bernard Washington asked Defendant Arresting Officers if they had a warrant.
37. Defendant Arresting Officers did not advise the Plaintiff, Bernard Washington's question as to whether they had a warrant.
38. Defendant Arresting Officers never showed the Plaintiff, Bernard Washington's a warrant regarding their seizure and arrest of the Plaintiff in Apartment 4B.
39. After placing the Plaintiff, Bernard Washington in handcuffs, Defendants "Surajbali" and Police Officer John Doe No. "3" left him on the floor and proceeded to search throughout Apartment 4B.
40. After concluding their search the Apartment 4B, Defendants "Surajbali" and Police Officer John Doe No. "3" left the apartment with the locks, hinges and door broken.
41. Defendant Arresting Officers brought the Plaintiff, Bernard Washington to the 75th Precinct.
42. After he was taken from Apartment 4B, the Plaintiff, Bernard Washington told Defendants "Surajbali" and Police Officer John Doe No. "3" that the handcuffs were too tight on his wrists and were causing him to suffer serious and significant pain.
43. Defendants "Surajbali" and Police Officer John Doe No. "3" took no action in response to the Plaintiff, Bernard Washington's requests to alleviate the pain caused by the handcuffs.

44. Defendants thereafter brought the Plaintiff, Bernard Washington, to the Criminal Court for the City of New York, Kings County [hereinafter, "Criminal Court"].

The Plaintiff, Tamika Stewart Returns Home

45. On March 14, 2014, the Plaintiff, Tamika Stewart returned home to Apartment 4B after the Defendant Arresting Officers left with the Plaintiff, Bernard Washington.
46. The Plaintiff, Tamika Stewart observed damage to the locks, hinges and entrance door for Apartment 4B immediately upon her return home to Apartment 4B.
47. On March 14, 2015, after observing the damage to the locks, hinges and entrance door for Apartment 4B, the Plaintiff, Tamika Stewart learned that the Plaintiff, Bernard Washington had been arrested and taken to the 75th Precinct.
48. When the Plaintiff, Tamika Stewart arrived at the 75th Precinct, was directed to speak to Defendant Arresting Officers.
49. While at the 75th Precinct, the Plaintiff Tamika Stewart spoke to the Defendant Arresting Officers:
- a. The Plaintiff, Tamika Stewart asked Defendant Arresting Officers:
 - i. If they had a warrant to arrest the Plaintiff, Bernard Washington.
 - ii. One of Defendant Arresting Officers stated he had a complaint.
 - iii. No warrant was ever produced or shown to the Plaintiff, Tamika Stewart.
 - b. The Plaintiff, Tamika Stewart asked Defendant Arresting Officers:
 - i. How did they know the Plaintiff, Bernard Washington was in Apartment 4B.

- ii. One of Defendant Arresting Officers stated he heard somebody in the apartment.
- c. The Plaintiff, Tamika Stewart asked Defendant Arresting Officers:
 - i. How did they know the sound in Apartment 4B was the Plaintiff, Bernard Washington and not one of her children.
 - ii. Defendant Arresting Officers did not respond to this question.
- d. The Plaintiff, Tamika Stewart asked defendant Arresting Officers:
 - i. If they would repair the damage to Apartment 4B.
 - ii. One of Defendant Arresting Officers stated:

“we can include you in our report, and it will effect your job if you’re going to question us about your door, or you can leave this alone and we won’t effect your job and include this in the report.”
 - iii. One of the Arresting Officers told the Plaintiff, Tamika Stewart that the damage to the lock was worth only \$4.00 or \$5.00, and that it was not worth the headache of her complaining about it.
- e. The Plaintiff, Tamika Stewart did not file a report because of the statements made by Defendant Arresting Officers.

Criminal Proceedings Against the Plaintiff Bernard Washington

50. On March 15, 2014, the Plaintiff, Bernard Washington following his arrest, appeared before the Criminal Court for the City of New York, Kings County, where he was arraigned and charged with various crimes under the New York Penal Law by a complaint sworn to by Defendant Surajbali, which was assigned Criminal Court Docket number 2014KN018423, **Exhibit “E”** [hereinafter, the “Criminal Court Complaint”].

51. The Criminal Court Complaint contained false and untrue allegations as a pretext to justify Defendants' entry into Apartment 4B, as well as the search, arrest and seizure of the Plaintiff, Bernard Washington.
- a. Defendant Surajbali personally, or with the assistance of one or more of Defendant Police Officers, drafted or assisted in drafting, the Criminal Complaint against the Plaintiff, Bernard Washington.
 - b. Defendant Surajbali averred and swore to the truth of the Criminal Court Complaint.
 - c. Defendant Surajbali knew that many of the allegations and statements he made in the Criminal Court Complaint were not true, either in whole or part, but were made so as to justify his conduct and the conduct of his fellow Defendant Officer during their warrantless search, arrest and seizure of the Plaintiff, Bernard Washington from inside Apartment 4B without the consent of this Plaintiff on March 14, 2014.
 - d. Defendant Surajbali knew that the allegation against the Plaintiff, Bernard Washington concerning his having resisted arrest in violation of New York Penal Law § 205.30 were not true and unfounded.
52. On March 15, 2014, the Plaintiff entered a plea of not guilty to all the charges at the time of his arraignment and the Criminal Court set bail at the time of the Plaintiff, Bernard Washington's arraignment.
53. The Criminal Court adjourned the case against the Plaintiff, Bernard Washington to March 20, 2014, requiring the Plaintiff to appear and attend in Court on that date, as well as subsequent additional dates, **Exhibit "F"**.
54. On September 16, 2014, all the criminal charges against the Plaintiff, Bernard Washington were dismissed, **Exhibit "F"**.
55. Upon information and belief, Defendant Police Officers Numbers "4", "5", "6", "7", "8", "9" and "10" are additional, Police Officers whose identities are presently unknown to the Plaintiffs, who were engaged and/or otherwise assisted and were involved with the other identified Defendants.

56. Upon further information and belief, based on the foregoing, Defendants were not only on notice of the above-complained about conditions, but failed or otherwise refused to take action and otherwise implement proper safety mechanisms, including better training, hiring.

PLAINTIFF TAMIKA STEWART'S FIRST CLAIM FOR RELIEF
(Violation of Civil Rights, 42 USC § 1983)

57. Plaintiffs repeats and realleges each and every allegation in paragraphs "1" to "56" with the same force and effect as if herein more fully set forth.
58. All of the above Defendant Police Officers, by their foregoing acts, intentionally and willfully acted jointly and severally under color of law, statute, ordinance, regulations, customs and practice of the State of New York, to deprive the Plaintiffs of their rights, privileges and immunities secured to them by the Constitutions and laws of the United States and New York.
59. All of the aforementioned acts of Defendants, their agents, servants and employees, were carried out under the color of state law.
60. All of the aforementioned acts deprived the Plaintiffs of the rights, privileges and immunities guaranteed to citizens of the United States by the First, Fourth, Fifth, Eighth and Fourteenth Amendments to the Constitution of the United States of America, in violation of 42 U.S.C. § 1983.
61. The acts complained of were carried out by the aforementioned individual Defendants in their capacities as Police Officers, with all the actual and/or apparent authority attendant thereto.

62. The acts complained of were carried out by the aforementioned individual Defendants in their capacities as police officers, pursuant to the customs, usages, practices, procedures and the rules of Defendant City and Defendant NYPD, all under the supervision of ranking officers of said department.
63. Defendants, collectively and individually, while acting under color of state law, engaged in conduct which constituted a custom, usage, practice, procedure or rule of the Defendants City and/or NYPD which is otherwise forbidden by the Constitutions of the United States and the State of New York.
64. The acts complained of deprived the Plaintiff of her rights:
- a. Not to enter into a private dwelling without obtaining a warrant;
 - b. Not to enter into a private dwelling absent complying with the U.S. and New York State Constitutions, and related statutes;
 - c. Not to use excessive force in entering a private dwelling; and,
 - d. To treat all private citizens with equal protection under the law.
65. The foregoing violations of the Plaintiff's Constitutional rights were under color of U.S. and New York laws, statutes, regulations and NY Constitutions.
66. As a result of the foregoing conduct by Defendants herein, the Plaintiff, Tamika Stewart has been damaged in an amount to be determined by this Court, but in no event less than One Million (\$1,000,000.00) Dollars compensatory damages and punitive damages in the amount of ONE MILLION (\$1,000,000.00) DOLLARS as against the individual defendants.

PLAINTIFF TAMIKA STEWART'S SECOND CLAIM FOR RELIEF

(Violation of Civil Rights, 42 USC § 1983)

67. The Plaintiff, Tamika Stewart repeats and realleges each and every allegation in paragraphs "1" to "56" and "58" to "66" with the same force and effect as if herein more fully set forth.
68. The Plaintiff, Tamika Stewart, had a right to report the conduct by Defendants herein regarding the entry into Apartment 4B.
69. The Plaintiff, Tamika Stewart, had a right to report the damages to Apartment 4B and to seek compensation for those damages as a result of Defendants' conduct.
70. Defendants, through the Defendant Arresting Officers, intimidated and threatened the Plaintiff, Tamika Stewart with adverse consequences in the event she reported Defendants' conduct and the damage to Apartment 4B.
71. Defendants, including the Defendant Arresting Officers, who by their conduct (or lack of action) under color of state law and within the scope of their employment, willfully and recklessly disregarded the Plaintiff, Tamika Stewart's right to due process of law, as provided under the United States New York Constitutions.
72. All of the above Defendant Police Officers, by their foregoing acts, intentionally and willfully acted jointly and severally under color of law, statute, ordinance, regulations, customs and practice of the State of New York, to deprive the Plaintiff, Tamika Stewart of her rights, privileges and immunities secured to her by the Constitutions and laws of the United States and New York.
73. All of the above Defendant Police Officers, by their foregoing acts, intentionally and willfully acted jointly and severally under color of law, statute, ordinance,

regulations, customs and practice of the State of New York, to deprive the Plaintiff, Tamika Stewart of her property without due process and just compensation as secured to her by the Constitutions and laws of the United States and New York.

74. The acts complained of deprived the Plaintiff, Tamika Stewart of her rights:
 - a. Not to be threatened and intimidated as a private citizen with hardship, retaliation and retribution for lawfully reporting damages to her locks, hinges and door as a result of conduct by members of Defendant NYPD's forced entry into her private dwelling (in this case Apartment 4B);
 - b. Not to be threatened and intimidated as a private citizen with hardship, retaliation and retribution for lawfully reporting damages to her locks, hinges and door as a result of conduct by members of Defendant NYPD's forced entry into her private dwelling (in this case Apartment 4B), particularly where such conduct was committed without a warrant;
 - c. Not to be deprived of her property without due process of law and just compensation by the Defendants herein; and,
 - d. To receive equal protection under the law.
75. All of the aforementioned acts of defendants, their agents, servants and employees, were carried out under the color of state law.
76. As a result of the foregoing conduct by Defendants herein, the Plaintiff, Tamika Stewart has been damaged in an amount to be determined by this Court, but not less than ONE MILLION (\$1,000,000.00) DOLLARS and punitive damages in the amount of ONE MILLION (\$1,000,000.00) DOLLARS as against the individual defendants.

PLAINTIFF TAMIKA STEWART'S THIRD CLAIM FOR RELIEF
(*Monell Claim Against Defendants City & Bratton*)

77. The Plaintiff, Tamika Stewart repeats and realleges each and every allegation in paragraphs "1" to "56", "58" to "66" and "68" to "76" with the same force and effect as if herein more fully set forth.
78. Defendants City and/or Bratton was/were obligated to provide rules, regulations and training concerning safe processes and procedures for members of Defendant NYPD in conducting and handling the entry into the dwellings of private citizens, including, but limited to the Plaintiff, Tamika Stewart herein.
79. Defendants City and/or Bratton was/were obligated to provide rules, regulations and training concerning safe processes and procedures for members of Defendant NYPD in responding and handling claims of private citizens, including but not limited to the Plaintiff, Tamika Stewart herein, regarding claims for entry into her private dwellings by members of Defendant NYPD, and responding to claims for damages as a result of such entry.
80. Defendants City and/or Bratton, as the Defendants responsible for the policies, practices and/or customs of Defendant NYPD, acted with deliberate indifference to the rights of those who come into contact with Defendant NYPD by failing to:
- a. Properly train, screen and supervise;
 - b. Inadequately monitor NYPD Officers in entering the dwellings of members of the public, including the Plaintiff, Tamika Stewart's Apartment 4B herein, so as to avoid the use of improper entry into her dwellings;
 - c. Inadequately monitor NYPD Officers in entering the dwellings of members of the public, including the Plaintiff, Tamika Stewart's

Apartment 4B herein, so as to avoid the use unnecessary and improper use of force so as to avoid damage in entering into her dwellings;

- d. Require members of Defendant NYPD, including the Defendant Police Officers herein, to not use disparate force and treatment against minority members, including persons of African-American descent such as the Plaintiff herein.

- 81. The acts complained of were carried out by the aforementioned individual Defendants in their capacities as police officers and officials, with all the actual and/or apparent authority attendant thereto.
- 82. The acts complained of were carried out by the aforementioned individual Defendants in their capacities as police officers and officials pursuant to the customs, policies, usages, practices, procedures, and rules of Defendants City and NYPD all under the supervision of ranking officers of said department.
- 83. The foregoing customs, policies, usages, practices, procedures and rules of Defendants City and/or NYPD constituted a deliberate indifference to the safety, well-being and constitutional rights of the Plaintiff, Tamika Stewart.
- 84. The foregoing customs, policies, usages, practices, procedures and rules of Defendants City and/or NYPD were the direct and proximate cause of the constitutional violations suffered by the Plaintiff, Tamika Stewart herein.
- 85. The foregoing customs, policies, usages, practices, procedures and rules of Defendants City and/or NYPD were the moving force behind the constitutional violations suffered by the Plaintiff, Tamika Stewart herein.
- 86. As a result of the foregoing customs, policies, usages, practices, procedures and rules of Defendants City and/or NYPD, the Plaintiff, Tamika Stewart was

subjected to unlawful and excessive damages and violations of her constitutional rights.

87. The individual Defendant Police Officers, collectively and individually, while acting under color of state law, acquiesced in a pattern of unconstitutional conduct by subordinate Police Officers, and were directly responsible for the violation of the Plaintiff, Tamika Stewart's constitutional rights.
88. The individual Defendant Police Officers, by their conduct, deprived the Plaintiff, Tamika Stewart of her Constitutionally protected rights, including, but not limited to, the right:
 - a. To be free from entry into her dwelling without a proper warrant and due process of law;
 - b. Not to have summary punishment imposed upon her by intimidating her from making a lawful complaint concerning violation of her Constitutional rights, without due process;
 - c. Not to have excessive force causing damage to her property without just and proper compensation; and,
 - d. To receive equal protection under the law.
89. As a result of the foregoing, the Plaintiff, Tamika Stewart sustained, *inter alia*, violation of her right to property and privacy of her dwelling, emotional distress, embarrassment, humiliation, deprivation of her constitutional rights and is entitled to compensatory and punitive damages in an amount to be determined by trial.

PLAINTIFF TAMIKA STEWART'S FOURTH CLAIM FOR RELIEF
(First Supplemental Claim Against Municipal Defendants)

90. The Plaintiff, Tamika Stewart repeats and realleges each and every allegation in paragraphs "1" to "56", "58" to "66", "68" to "76" and "78" to "89" with the same force and effect as if herein more fully set forth.
91. The Plaintiff asserts Supplemental Jurisdiction over claims arising under New York law, 28 USC § 1367.
92. The Supplemental claims fall within one or more of the exceptions as outlined in New York local law, C.P.L.R. § 1602.
93. Defendants City and/or NYPD by their employees, agents and/or servants committed trespass and otherwise used excessive force against the Plaintiff, Tamika Stewart's apartment.
94. As a result of the individual Defendant Police Officers' conduct, the Plaintiff, Tamika Stewart has suffered damages, including mental anguish, together with shock, fright, apprehension, embarrassment, and humiliation.
95. As a result of Defendants' conduct and negligence, the Plaintiff has been damaged in an amount to be determined by this Court, but not less than ONE MILLION (\$1,000,000.00) DOLLARS as against the defendants.

PLAINTIFF TAMIKA STEWART'S FIFTH CLAIM FOR RELIEF
(Second Supplemental Claim Against Municipal Defendants)

96. The Plaintiff, Tamika Stewart repeats and realleges each and every allegation in paragraphs "1" to "56", "58" to "66", "68" to "76", "78" to "89" and "91" to "95" with the same force and effect as if herein more fully set forth.

97. Defendants City and/or NYPD failed to properly trained, retained, assigned and supervised all members of said its Police Department, including the individual Defendant Police Officers named above.
98. Due to the failure of Defendants City and/or NYPD to properly train all members of said Police Department, including the individual Defendant Police Officers, the Plaintiff, Tamika Stewart, suffered mental injury, pain and trauma, together with embarrassment, humiliation shock, fright, and loss of freedom and is entitled to compensatory damages in an amount to be determined at Trial.
99. As a result of Defendants' conduct and negligence, the Plaintiff has been damaged in an amount to be determined by this Court, but not less than ONE MILLION (\$1,000,000.00) DOLLARS as against the defendants.

PLAINTIFF BERNARD WASHINGTON'S FIRST CLAIM FOR RELIEF
(Violation of Civil Rights, 42 USC § 1983)

100. The Plaintiff, Bernard Washington repeats and realleges each and every allegation in paragraphs "1" to "56", "58" to "66", "68" to "76", "78" to "89", "91" to "95" and "97" to "99" with the same force and effect as if herein more fully set forth.
101. All of the above Defendant Police Officers, by their foregoing acts, intentionally and willfully acted jointly and severally under color of law, statute, ordinance, regulations, customs and practice of the State of New York, to deprive the Plaintiff, Bernard Washington of his rights, privileges and immunities secured to him by the Constitutions and laws of the United States and New York.
102. All of the aforementioned acts of defendants, their agents, servants and employees, were carried out under the color of state law.

103. All of the aforementioned acts deprived the Plaintiff, Bernard Washington of the rights, privileges and immunities guaranteed to citizens of the United States by the First, Fourth, Fifth, Eighth and Fourteenth Amendments to the Constitution of the United States of America, in violation of 42 U.S.C. § 1983.
104. The acts complained of were carried out by the aforementioned individual Defendants in their capacities as Police Officers, with all the actual and/or apparent authority attendant thereto.
105. The acts complained of were carried out by the aforementioned individual Defendants in their capacities as police officers, pursuant to the customs, usages, practices, procedures, and the rules of Defendants City and NYPD, all under the supervision of ranking officers of said department.
106. Defendants, collectively and individually, while acting under color of state law, engaged in conduct which constituted a custom, usage, practice, procedure or rule of the respective municipality/authority, forbidden by the U.S. Constitution.
107. The acts complained of deprived the Plaintiff, Bernard Washington of his Constitutional Rights:
 - a. Not to have excessive force imposed upon him;
 - b. Not to have summary punishment imposed upon him;
 - c. Not to be charged with false and inaccurate charges;
 - d. To receive equal protection under the law.

108. The foregoing violations of the Plaintiff, Bernard Washington's Constitutional rights were undertaken under color of law, statutes, regulations and Constitution of the State of New York.
109. As a result of the foregoing conduct by Defendants herein, the Plaintiff, Bernard Washington has been damaged in an amount to be determined by this Court, but not less than TWO MILLION (\$2,000,000.00) DOLLARS and punitive damages in the amount of TWO MILLION (\$2,000,000.00) DOLLARS as against the individual defendants.

PLAINTIFF BERNARD WASHINGTON'S SECOND CLAIM FOR RELIEF
(Violation of Civil Rights, 42 USC § 1983)

110. The Plaintiff, Bernard Washington repeats and realleges each and every allegation in paragraphs "1" to "56", "58" to "66", "68" to "76", "78" to "89", "91" to "95", "97" to "99" and "101" to "109" with the same force and effect as if herein more fully set forth.
111. The level of force employed by Defendant Arresting Officers, Surajbali and Police Officer John Doe No. "3" was objectively unreasonable and in violation of the Plaintiff, Bernard Washington's Constitutional rights.
112. As a result of the foregoing, the Plaintiff, Bernard Washington suffered bodily injuries, as well as a deprivation of liberty, invasion of privacy, severe emotional distress, public humiliation and violation of his constitutional rights.
113. As a result of the foregoing conduct by Defendants herein, the Plaintiff, Bernard Washington has been damaged in an amount to be determined by this Court. As a result of the foregoing conduct by Defendants herein, the Plaintiff, Bernard

Washington has been damaged in an amount to be determined by this Court, but not less than TWO MILLION (\$2,000,000.00) DOLLARS and punitive damages in the amount of TWO MILLION (\$2,000,000.00) DOLLARS as against the individual defendants.

PLAINTIFF BERNARD WASHINGTON'S THIRD CLAIM FOR RELIEF
(Violation of Civil Rights, 42 USC § 1983)

114. The Plaintiff, Bernard Washington repeats and realleges each and every allegation in paragraphs "1" to "56", "58" to "66", "68" to "76", "78" to "89", "91" to "95", "97" to "99" and "101" to "109" and "111" to "113" with the same force and effect as if herein more fully set forth.
115. As a result of Defendants' aforementioned conduct, the Plaintiff, Bernard Washington was subjected to an illegal, improper and false arrest by the individual Defendant Police Officers and taken into custody and caused to be falsely imprisoned, detained, confined, incarcerated and prosecuted by the defendants in criminal proceedings, without any reasonable nor probable cause, privilege or consent under the U.S. and New York Constitutions.
116. As a result of the foregoing, the Plaintiff, Bernard Washington sustained, *inter alia*, loss of liberty, emotional distress, embarrassment, humiliation, deprivation of his constitutional rights and has been damaged in an amount to be determined at trial. As a result of the foregoing conduct by Defendants herein, the Plaintiff, Bernard Washington has been damaged in an amount to be determined by this Court. As a result of the foregoing conduct by Defendants herein, the Plaintiff, Bernard Washington has been damaged in an amount to be determined by this

Court, but not less than TWO MILLION (\$2,000,000.00) DOLLARS and punitive damages in the amount of TWO MILLION (\$2,000,000.00) DOLLARS as against the individual defendants.

PLAINTIFF BERNARD WASHINGTON'S FOURTH CLAIM FOR RELIEF
(Violation of Civil Rights, 42 USC § 1983)

117. The Plaintiff, Bernard Washington repeats and realleges each and every allegation in paragraphs "1" to "56", "58" to "66", "68" to "76", "78" to "89", "91" to "95", "97" to "99" and "101" to "109", "111" to "113" and "115" to "116" with the same force and effect as if herein more fully set forth.
118. As a result of the foregoing, the Plaintiff, Bernard Washington was subjected to an illegal and improper search and seizure from a lawful residential dwelling without warrant or consent.
119. The foregoing unlawful search and seizure violated the Plaintiff, Bernard Washington's constitutional right to privacy, as guaranteed by the Fourth, Fifth, and Fourteenth Amendments to the U.S. Constitution and Article I, Section 6 of the New York Constitution.
120. As a result of the foregoing, the Plaintiff, Bernard Washington sustained, *inter alia*, loss of liberty, emotional distress, embarrassment, humiliation, deprivation of his constitutional rights and has been damaged in an amount to be determined by this Court, but not less than TWO MILLION (\$2,000,000.00) DOLLARS and punitive damages in the amount of TWO MILLION (\$2,000,000.00) DOLLARS as against the individual defendants.

PLAINTIFF BERNARD WASHINGTON'S FIFTH CLAIM FOR RELIEF
(Violation of Civil Rights, 42 USC § 1983)

121. The Plaintiff, Bernard Washington repeats and realleges each and every allegation in paragraphs "1" to "56", "58" to "66", "68" to "76", "78" to "89", "91" to "95", "97" to "99" and "101" to "109", "111" to "113", "115" to "116" and "118" to "120" with the same force and effect as if herein more fully set forth.
122. Defendants, including Defendant Arresting Officers willfully misrepresented and falsified evidence before the District Attorney.
123. Defendants, including Defendant Arresting Officers did not make a complete and full statement of facts to the District Attorney.
124. Defendants, including Defendant Arresting Officers withheld exculpatory evidence from the District Attorney.
125. The individual Defendant Arresting Officers were directly and actively involved in the initiation of criminal proceedings against the Plaintiff, Bernard Washington.
126. The individual Defendant Arresting Officers lacked probable cause to initiate criminal proceedings against the Plaintiff, Bernard Washington.
127. The individual Defendant Arresting Officers lacked probable cause to initiate criminal charges against the Plaintiff, Bernard Washington concerning his resisting arrest.
128. The individual Defendant Arresting Officers acted with malice in initiating criminal proceedings against the Plaintiff, Bernard Washington.
129. The Defendant Arresting Officers were directly and actively involved in the continuation of criminal proceedings against the Plaintiff, Bernard Washington.

130. Defendants lacked probable cause to continue criminal proceedings against the Plaintiff, Bernard Washington.
131. Defendants acted with malice in continuing criminal proceedings against the Plaintiff, Bernard Washington.
132. The individual Defendant Police Officers misrepresented and falsified evidence throughout all phases of the criminal proceedings.
133. Notwithstanding Defendants' perjurious and fraudulent conduct, the criminal proceedings were terminated in Mr. Washington's favor on September 16, 2014 when all the charges against him were dismissed, **Exhibit 'G'**.
134. As a result of the foregoing, the Plaintiff, Bernard Washington sustained, *inter alia*, loss of liberty, emotional distress, embarrassment, humiliation, deprivation of his constitutional rights and has been damaged in an amount to be determined by this Court, but not less than TWO MILLION (\$2,000,000.00) DOLLARS and punitive damages in the amount of TWO MILLION (\$2,000,000.00) DOLLARS as against the individual defendants.

PLAINTIFF BERNARD WASHINGTON'S SIXTH CLAIM FOR RELIEF
(Monell Claim Against Defendants City & Bratton)

135. The Plaintiff, Bernard Washington repeats and realleges each and every allegation in paragraphs "1" to "56", "58" to "66", "68" to "76", "78" to "89", "91" to "95", "97" to "99" and "101" to "109", "111" to "113", "115" to "116", "118" to "120" and "121" to "134" with the same force and effect as if herein more fully set forth.
136. Defendants City and/or Bratton was/were obligated to provide rules, regulations and training concerning safe processes and procedures for members of Defendant

NYPD in conducting and handling the entry into the dwellings of private citizens, including, but limited to the Plaintiff, Bernard Washington herein.

137. Defendants City and/or Bratton was/were obligated to provide rules, regulations and training concerning safe processes and procedures for members of Defendant NYPD in responding and handling claims of private citizens, including but not limited to the Plaintiff, Bernard Washington herein, regarding claims for entry into his private dwellings by members of Defendant NYPD, and the use of force.
138. Defendants City and/or Bratton, as the Defendants responsible for the policies, practices and/or customs of Defendant NYPD, acted with deliberate indifference to the rights of those who come into contact with Defendant NYPD by failing to:
 - a. Properly train, screen and supervise;
 - b. Inadequately monitor NYPD Officers in entering the dwellings of members of the public, including the Plaintiff, Bernard Washington's Apartment 4B herein, so as to avoid the use of improper entry into his dwellings;
 - c. Inadequately monitor NYPD Officers in entering the dwellings of members of the public, including the Plaintiff, Bernard Washington's Apartment 4B herein, so as to avoid the improper entry into such dwelling without warrant;
 - d. Require members of Defendant NYPD, including the Defendant Police Officers herein, to not use disparate force and treatment against minority members, including persons of African-American descent such as the Plaintiff herein.
139. The acts complained of were carried out by the aforementioned individual Defendants in their capacities as police officers and officials, with all the actual and/or apparent authority attendant thereto.

140. The acts complained of were carried out by the aforementioned individual Defendants in their capacities as police officers and officials pursuant to the customs, policies, usages, practices, procedures, and rules of Defendants City and NYPD all under the supervision of ranking officers of said department.
141. The foregoing customs, policies, usages, practices, procedures and rules of Defendants City and/or NYPD constituted a deliberate indifference to the safety, well-being and constitutional rights of the Plaintiff, Bernard Washington.
142. The foregoing customs, policies, usages, practices, procedures and rules of Defendants City and/or NYPD were the direct and proximate cause of the constitutional violations suffered by the Plaintiff, Bernard Washington herein.
143. The foregoing customs, policies, usages, practices, procedures and rules of Defendants City and/or NYPD were the moving force behind the constitutional violations suffered by the Plaintiff, Bernard Washington herein.
144. As a result of the foregoing customs, policies, usages, practices, procedures and rules of Defendants City and/or NYPD, the Plaintiff, Bernard Washington was subjected to unlawful and excessive damages and violations of his constitutional rights.
145. The individual Defendant Police Officers, collectively and individually, while acting under color of state law, acquiesced in a pattern of unconstitutional conduct by subordinate Police Officers, and were directly responsible for the violation of the Plaintiff, Bernard Washington's constitutional rights.

146. The individual Defendant Police Officers, by their conduct, deprived the Plaintiff, Bernard Washington of his Federally protected rights, including, but not limited to, the right:

- a. To be free from unwarranted, improper entry into Apartment 4B;
- b. Not to be subject to excessive force imposed upon his person; and,
- c. To receive equal protection under the law.

147. As a result of the foregoing, the Plaintiff, Bernard Washington sustained, *inter alia*, violation of his right to property and privacy of Apartment 4B, emotional distress, embarrassment, humiliation, deprivation of her constitutional rights and is entitled to compensatory and punitive damages in an amount to be determined by this Court, but not less than TWO MILLION (\$2,000,000.00) DOLLARS and punitive damages in the amount of TWO MILLION (\$2,000,000.00) DOLLARS as against the individual defendants.

PLAINTIFF BERNARD WASHINGTON'S SEVENTH CLAIM FOR RELIEF
(First Supplemental Claim Against Municipal Defendants)

148. The Plaintiff, Bernard Washington repeats and realleges each and every allegation in paragraphs "1" to "56", "58" to "66", "68" to "76", "78" to "89", "91" to "95", "97" to "99" and "101" to "109", "111" to "113", "115" to "116", "118" to "120", "121" to "134" and "136" to "147" with the same force and effect as if herein more fully set forth.

149. The Plaintiff asserts Supplemental Jurisdiction over claims arising under New York law, 28 USC § 1367.

150. The Supplemental claims fall within one or more of the exceptions as outlined in New York local law, C.P.L.R. § 1602.
151. On March 15, 2014, Defendant Surajbali commenced a criminal proceeding against the Plaintiff, Bernard Washington.
152. Defendant Surajbali lacked probable cause to commence said criminal proceeding against the Plaintiff, Bernard Washington.
153. Defendant Surajbali lacked probable cause to assert and claim in said criminal proceeding against the Plaintiff, Bernard Washington regarding the crime of resisting arrest in violation of New York Penal Law § 205.30
154. Defendant Surajbali was motivated by actual malice in commencing said criminal proceeding against the Plaintiff, Bernard Washington.
155. Defendant Surajbali was motivated by actual malice to charging the Plaintiff, Bernard Washington with the crime resisting arrest in violation of New York Penal Law § 205.30.
156. On September 16, 2014, the criminal prosecution against the Plaintiff, Bernard Washington was terminated in his favor.
157. As a result of the aforementioned conduct, the Plaintiff, Bernard Washington suffered physical and mental injury, together with embarrassment, humiliation, shock, fright, and loss of freedom.
158. As a result of the foregoing, the Plaintiff, Bernard Washington sustained *inter alia*, emotional distress, embarrassment and humiliation, loss of liberty, and deprivation of his constitutional rights.

159. As a result of the foregoing, plaintiff is entitled to compensatory and punitive damages in an amount to be determined by this Court, but not less than TWO MILLION (\$2,000,000.00) DOLLARS and punitive damages in the amount of TWO MILLION (\$2,000,000.00) DOLLARS as against the individual defendants.

WHEREFORE, Plaintiff respectfully prays this Court for a judgment as follows:

- A) ONE MILLION (\$1,000,000.00) DOLLARS compensatory damages on the First, Second, Third, Fourth and Fifth Claims for Relief on behalf of the Plaintiff, Tamika Stewart as against Defendants and that said judgment be jointly and severally on behalf of the Plaintiff;
- B) ONE MILLION (\$1,000,000.00) DOLLARS punitive damages on the First and Second Claims for Relief on behalf of the Plaintiff, Tamika Stewart as against Defendant Police Officers, jointly and severally;
- C) TWO MILLION (\$2,000,000.00) DOLLARS compensatory damages on the First, Second, Third, Fourth, Fifth, Sixth and Seventh Claims for Relief on behalf of the Plaintiff, Bernard Washington as against Defendants and that said judgment be jointly and severally;
- D) TWO MILLION (\$1,000,000.00) DOLLARS punitive damages on the First, Second, Third, Fourth and Fifth Claims for Relief on behalf of the Plaintiff, Bernard Washington as against Defendant Police Officers, jointly and severally; and,
- E) Reasonable attorney's fees pursuant to 42 U.S.C. §§ 1988 in an amount to be determined by this Court.

as well as costs, fees disbursements.

Dated: New York, N.Y.
June 10, 2015

Yours, etc.,

MATTHEW A. KAUFMAN

By: Matthew A. Kaufman - (MK 0598)

Attorney for Plaintiff

225 Broadway - Suite 1606

New York, N.Y. 10007

Tel. No. (212) 619-2200

MAK File No. 15,452.301

makaufman01@yahoo.com

EXHIBIT “A”

THE CITY OF NEW YORK

-----X
In the Matter of the Claim of
TAMIKA B. STEWART,

Claimant,

VERIFIED NOTICE
OF CLAIM

-against-

THE CITY OF NEW YORK, THE NEW YORK CITY
POLICE DEPARTMENT, POLICE OFFICER
JOHN DOES Nos. "1" to "10" (Actual Names
Unknown, intended to be the Police Officers Assigned
to the 75th Precinct on March 10, 2014 Who were
Engaged in the Arrest at the Claimant's Apartment on
March 10, 2014),

Respondents.

-----X
TO: THE COMPTROLLER OF THE CITY OF NEW YORK, THE NEW YORK CITY
POLICE DEPARTMENT, POLICE OFFICERS JOHN DOES Nos. "1" to "10":

PLEASE TAKE NOTICE,

THAT, the undersigned Claimant, TAMIKA B. STEWART, hereby makes claim
against:

THE CITY OF NEW YORK, THE NEW YORK CITY POLICE DEPARTMENT,
POLICE OFFICERS JOHN DOES Nos. "1" to "10" (Actual Names Unknown, intended
to be the Police Officers Assigned to the 75th Precinct on March 10, 2014 Who Were
Engaged in the Arrest at the Claimant's Apartment on March 10, 2014)

1. Name and post-office address of the claimants and their attorneys are as follows:

TAMIKA B. STWART

MATTHEW A. KAUFMAN, ESQ.
Attorney for Claimant
225 Broadway - Suite 1606
New York, N.Y. 10007
Tel. No. (212) 619-2200
File No. 15,452.301

CITY OF N.Y. LAW DEPT.
OFFICE OF CORP. COUNSEL
COMMUNICATIONS UNIT
2014 APR 29 PM 4:24
CITY

CITY OF N.Y. LAW DEPT.
OFFICE OF CORP. COUNSEL
COMMUNICATIONS UNIT
2014 APR 29 PM 4:24
MYPD

2. Nature of the Claim:

Claim for property damage sustained by the Claimant, TAMIKA B. STEWART arising on March 10, 2014 at approximately 4:00 p.m. to 4:30 p.m. as a result of Respondents' wrongful conduct, through their agents, servants and employees. Said conduct includes the trespass and/or excess force used by the Respondent Police Officers while in the employ and service of Respondent City.

Respondent City, through its agents, servants and/or employees, used excessive force in the entry of the Claimant's dwelling and abode, causing damage to her property. That said conduct was unlawful in violation of his Civil and Constitutional Rights under the 4th and 14th Amendment to the United States Constitution and New York Constitution.

Respondent City employees, agents and/or servants all acted as police officers within the employ of Respondent City under color of law, and in wanton and reckless disregard of the Claimant's Constitutional and Civil rights, including the freedom from the use of excessive and unnecessary force in gaining entry to the Claimant's dwelling and abode as guaranteed by the Constitution of the State of New York and the United States Constitution.

Respondents CITY failed to properly train Police Officers John Does Numbers "1" to "10" on proper police procedures, including how to handle warrantless arrests of individuals, the proper use of force for entry into a private dwelling and residence during an arrest, the obligation and manner to provide truthful information in police reports.

3. The time when, the place where and the manner in which the claim arose were as follows:

The Claim arose March 10, 2014 at approximately 4:00 p.m. to 4:30 p.m. at 55 Malta Street, Apt. 4B, Brooklyn, New York while Respondents were making an arrest at the Claimant's residence on that date. During the course of that arrest, Respondents physically unnecessarily damaged the Claimant's property. As a result of Respondents' conduct, the Claimant has further been placed in emotional freight and fear for her safety.

4. The items of damage or injuries claimed are (including dollar amounts):

The Claimant, TAMIKA B. STEWART suffered damages as a result of Respondents' conduct.

TOTAL AMOUNT CLAIMED:

Property Damage:

TAMIKA B. STEWART TWO THOUSAND FIVE HUNDRED (\$2,500.00) DOLLARS

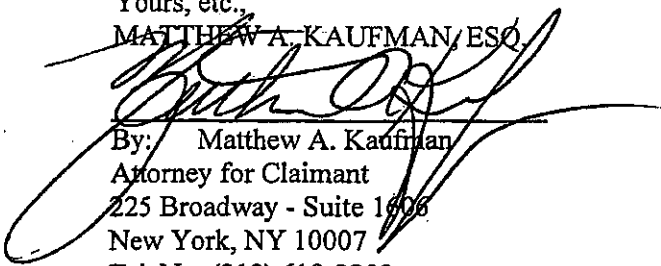
Emotional Damage:

TAMIKA B. STEWART ONE HUNDRED THOUSAND (\$100,0500.00) DOLLARS

Dated: New York, New York
April 29, 2014

Yours, etc.,

MATTHEW A. KAUFMAN, ESQ.



By: Matthew A. Kaufman

Attorney for Claimant

225 Broadway - Suite 1606

New York, NY 10007

Tel. No. (212) 619-2200

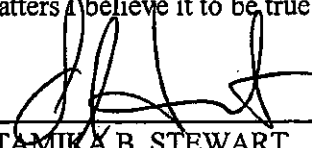
My File No. 15,452.301

VERIFICATION

STATE OF NEW YORK)
 : SS.:
COUNTY OF NEW YORK)

TAMIKA B. STEWART, being duly sworn, depose and say:

I am Claimant herein, I have read the foregoing Notice of Claim and know the contents thereof; and the same are true to my own knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those matters I believe it to be true.



TAMIKA B. STEWART

Sworn to before me the

29 day of April 2014


Notary Public

MATTHEW A. KAUFMAN
Notary Public, State of New York
No. 02KA4723415
Qualified in Kings County
Commission Expires 12/31/2014

EXHIBIT “B”

At an I.A.S. Trial Term, Part ²⁶ of the Supreme Court of the State of New York, held in and for the County of Kings, at the Courthouse, located at Civic Center, Borough of Brooklyn, City and State of New York, on the 5th day of May, 20 15

P R E S E N T
Hon. GROVES
Justice

2015-000713

Bernard Washington
and Tamika Stewart Plaintiff(s)
- against -

Cal. No. 48

Index No. 10091/14

The City of NY, NYPD,
et al. Defendant(s)

The following papers numbered 1 to read on this motion

Papers Numbered 1042

Notice of Motion - Order to Show Cause

and Affidavits (Affirmations) Annexed

Answering Affidavit (Affirmation)

Reply Affidavit (Affirmation)

Affidavit (Affirmation)

Pleadings - Exhibits

Stipulations - Minutes

Filed Papers

I. Petitioner Tamika Stewart's petition to file an amended notice of claim to change the accident date from 3/10/14 to 3/14/14 is granted without opposition.

II. ~~Respondent~~ After oral argument, petitioner Washington's petition to file a late notice of claim is denied for the following reasons:

For Clerks use only

MG

MD

Motion Seq. #

① The City did not have actual knowledge of the essential facts underlying the claim as a police officer's involvement in effectuating an arrest and the creation of arrest

EJV-rev 11-04

records - without more - J.S.C. does not satisfy the actual knowledge prong of GML § 50-e (see Blush v. City of NY); the speculation of additional NYPD records does not change this, there were no other factors presented to consider

PAGE 2 of 2

INDEX# 16091114

DATE 5/15/15

PLAINTIFF WATSON, RD vs DEFENDANT CITY OF NEW YORK,
BERNARD et al. et al.

② law office failure ^{does} not constitute
a reasonable excuse; and

② petitioner failed to rebut the
presumption that the city was not
prejudiced by the delay

RECEIVED
[Signature]
BY MAIL ROOM

ENTERED/SO ORDERED

JSC

Lara J. Genovesi
J.S.C.

PAGE 2

Arian Plaque

Δ city

EXHIBIT “C”

THE CITY OF NEW YORK

-----X
In the Matter of the Claim of
TAMIKA B. STEWART,

Claimant,

VERIFIED AMENDED
NOTICE OF CLAIM

-against-

THE CITY OF NEW YORK, THE NEW YORK CITY
POLICE DEPARTMENT, POLICE OFFICER AVINASH
SURAJBALI (Shield No. 30256, Assigned to the 75th
Precinct on March 14, 2014), and POLICE OFFICERS
JOHN DOES Nos. "1" to "10" (Actual Names
Unknown, intended to be the Police Officers Assigned
to the 75th Precinct on March 14, 2014 Who were
Engaged in the Arrest of March 14, 2014),

Respondents.


-----X
**TO: THE COMPTROLLER OF THE CITY OF NEW YORK, THE NEW YORK CITY
POLICE DEPARTMENT, POLICE OFFICER AVINASH SURAJBALI, POLICE
OFFICERS JOHN DOES Nos. "1" to "10":**

PLEASE TAKE NOTICE,

THAT, the undersigned Claimant, TAMIKA B. STEWART, hereby makes claim
against:

THE CITY OF NEW YORK, THE NEW YORK CITY POLICE DEPARTMENT,
POLICE OFFICER AVINASH SURAJBALI, POLICE OFFICERS JOHN DOES Nos.
"1" to "10" (Actual Names Unknown, intended to be the Police Officers Assigned to the
75th Precinct on March 14, 2014 Who Were Engaged in the Arrest at the Claimant at his
Apartment on March 14, 2014)

1. **Name and post-office address of the claimants and their attorneys are as follows:**

TAMIKA B. STWART


MATTHEW A. KAUFMAN, ESQ.
Attorney for Claimant
225 Broadway - Suite 1606
New York, N.Y. 10007
Tel. No. (212) 619-2200
File No. 15,452.301

2. **Nature of the Claim:**

2015 JUN 10 AM 10:09

CITY OF NEW YORK
OFFICE OF THE CLERK
JUL 1 2015

2. **Nature of the Claim:**

Claim for property damage sustained by the Claimant, TAMIKA B. STEWART arising on March 14, 2014 at approximately 4:00 p.m. to 4:30 p.m. as a result of Respondents' wrongful conduct, through their agents, servants and employees. Said conduct includes the trespass and/or excess force used by the Respondent Police Officers while in the employ and service of Respondent City.

Respondent City, through its agents, servants and/or employees, used excessive force in the entry of the Claimant's dwelling and abode, causing damage to her property. That said conduct was unlawful in violation of her Civil and Constitutional Rights under the 4th and 14th Amendment to the United States Constitution and New York Constitution.

Respondent City employees, agents and/or servants all acted as police officers within the employ of Respondent City under color of law, and in wanton and reckless disregard of the Claimant's Constitutional and Civil rights, including the freedom from the use of excessive and unnecessary force in gaining entry to the Claimant's dwelling and abode as guaranteed by the Constitution of the State of New York and the United States Constitution.

Respondents CITY failed to properly train Police Officers Avinash Surajbali, John Does Numbers "1" to "10" on proper police procedures, including how to handle warrantless arrests of individuals, the proper use of force for entry into a private dwelling and residence during an arrest, the obligation and manner to provide truthful information in police reports.

3. **The time when, the place where and the manner in which the claim arose were as follows:**

The Claim arose March 14, 2014 at approximately 4:00 p.m. to 4:30 p.m. at 55 Malta Street, Apt. 4B, Brooklyn, New York while Respondents were making an arrest at the Claimant's residence on that date. During the course of that arrest, Respondents physically unnecessarily damaged the Claimant's property. As a result of Respondents' conduct, the Claimant has further been placed in emotional freight and fear for her safety.

4. The items of damage or injuries claimed are (including dollar amounts):

The Claimant, TAMIKA B. STEWART suffered damages as a result of Respondents' conduct.

TOTAL AMOUNT CLAIMED:

Property Damage:

TAMIKA B. STEWART TWO THOUSAND FIVE HUNDRED (\$2,500.00) DOLLARS

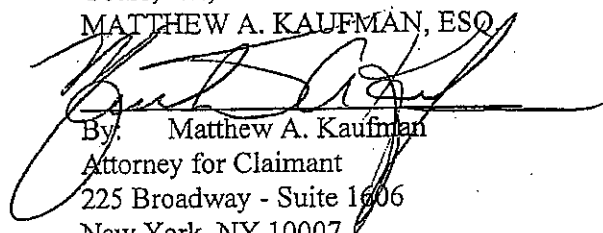
Emotional Damage:

TAMIKA B. STEWART ONE HUNDRED THOUSAND (\$100,0500.00) DOLLARS

Dated: New York, New York
October 30, 2014

Yours, etc.,

MATTHEW A. KAUFMAN, ESQ.



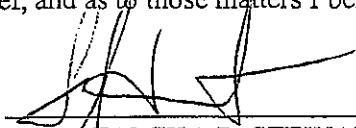
By: Matthew A. Kaufman
Attorney for Claimant
225 Broadway - Suite 1606
New York, NY 10007
Tel. No. (212) 619-2200
My File No. 15,452.301

VERIFICATION

STATE OF NEW YORK)
 : SS.:
COUNTY OF NEW YORK)

TAMIKA B. STEWART, being duly sworn, depose and say:

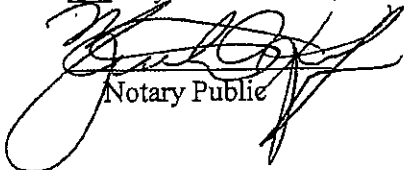
I am Claimant herein, I have read the foregoing Amended Notice of Claim and know the contents thereof; and the same are true to my own knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those matters I believe it to be true.



TAMIKA B. STEWART

Sworn to before me the

31st day of *October*, 2014


Notary Public

MONTNEW A. KAUFMAN
Notary Public, State of New York
No. 02K04723415
Qualified in Kings County
Commission Expires 12/31/2014

At an I.A.S. Trial Term, Part ²⁶ of the Supreme Court of the State of New York, held in and for the County of Kings, at the Courthouse, located at Civic Center, Borough of Brooklyn, City and State of New York, on the 15 day of May, 20 15

P R E S E N T
Hon. GROVES
Justice

2015-0007B
Cal. No. 48

Index No. 10091/14

JUN 10 10:09

CITY OF NEW YORK DEPT. OF THE COURTS

Bernard Washington
and Tamika Stewart
- against -

Plaintiff(s)

The City of NY, NYPD,
et al.

Defendant(s)

The following papers numbered 1 to read on this motion

Papers Numbered 1042

Notice of Motion - Order to Show Cause
and Affidavits (Affirmations) Annexed

Answering Affidavit (Affirmation)

Reply Affidavit (Affirmation)

Affidavit (Affirmation)

Pleadings - Exhibits

Stipulations - Minutes

Filed Papers

I. Petitioner Tamika Stewart's petition to file an amended notice of claim to change the accident date from 3/10/14 to 3/14/14 is granted without opposition.

II. ~~Washington's~~ After oral argument, petitioner Washington's petition to file a late notice of claim is denied for the following reasons:

For Clerks use only

MG

MD

Motion Seq. #

① The City did not have actual knowledge of the essential facts underlying the claim as a police officer's involvement in effectuating an arrest and the creation of arrest records - without more - does not satisfy the actual knowledge prong of GML § 50-e (see Bush v. City of NY);

the speculation of additional NYPD records does not change this, there were no other factors presented to consider

PAGE 2 of 2

INDEX# 16091114

DATE 5/15/15

PLAINTIFF WATSON, JR. vs DEFENDANT CITY OF NEW YORK,
BERNARD et al. et al.

- ① law office failure ^{does} not constitute
a reasonable excuse; and
- ② petitioner failed to rebut the
presumption that the city was not
prejudiced by the delay

2015 JUN 10 AM 10:09

CITY OF NEW YORK DEPT
OF COURTS
CLERK OF COURT

Petitioner's
[Signature]
BERNARD et al.

ENTERED/SO ORDERED

JSC

Lara J. Genovesi
J.S.C.

PAGE 2

Adrian Plaque
Δ city

EXHIBIT “D”

THE CITY OF NEW YORK

-----X
In the Matter of the Claim of
BERNARD WASHINGTON,

Claimant,

VERIFIED NOTICE
OF CLAIM

-against-

THE CITY OF NEW YORK, THE NEW YORK CITY
POLICE DEPARTMENT, POLICE OFFICER AVINASH
SURAJBALI (Shield No. 30256, Assigned to the 75th
Precinct on March 14, 2014), and POLICE OFFICERS
JOHN DOES Nos. "1" to "10" (Actual Names
Unknown, intended to be the Police Officers Assigned
to the 75th Precinct on March 14, 2014 Who were
Engaged in the Arrest of March 14, 2014),

Respondents.

-----X
**TO: THE COMPTROLLER OF THE CITY OF NEW YORK, THE NEW YORK CITY
POLICE DEPARTMENT, POLICE OFFICER AVINASH SURAJBALI, POLICE
OFFICERS JOHN DOES Nos. "1" to "10":**

PLEASE TAKE NOTICE,

THAT, the undersigned Claimant, BERNARD WASHINGTON, hereby makes claim
against:

THE CITY OF NEW YORK, THE NEW YORK CITY POLICE DEPARTMENT,
POLICE OFFICER AVINASH SURAJBALI, POLICE OFFICERS JOHN DOES Nos.
"1" to "10" (Actual Names Unknown, intended to be the Police Officers Assigned to the
75th Precinct on March 14, 2014 Who Were Engaged in the Arrest at the Claimant at his
Apartment on March 14, 2014)

1. **Name and post-office address of the claimants and their attorneys are as follows:**

BERNARD WASHINGTON
[REDACTED]

MATTHEW A. KAUFMAN, ESQ.
Attorney for Claimant
225 Broadway - Suite 1606
New York, N.Y. 10007
Tel. No: (212) 619-2200
File No. 15,452.301

2. **Nature of the Claim:**

Claim for false arrest, excessive force, abuse of process and malicious prosecution sustained by the Claimant, BERNARD WASHINGTON arising on March 14, 2014 at approximately 4:00 p.m. to 4:30 p.m. as a result of Respondents' wrongful conduct, through their agents, servants and employees. Said conduct includes the trespass and/or excess force used by the Respondent Police Officers while in the employ and service of Respondent City.

Respondent City, through its agents, servants and/or employees, used excessive force in the entry of the Claimant's dwelling and abode, upon information and belief, without a warrant, and forcibly and unlawfully arresting him. That said conduct was unlawful in violation of his Civil and Constitutional Rights under the 4th and 14th Amendment to the United States Constitution and New York Constitution.

Respondent City employees; agents and/or servants all acted as police officers within the employ of Respondent City under color of law, and in wanton and reckless disregard of the Claimant's Constitutional and Civil rights, including the freedom from the use of excessive and unnecessary force in gaining entry to the Claimant's dwelling and abode as guaranteed by the Constitution of the State of New York and the United States Constitution.

As a result of the foregoing, false and fraudulent charges were made against the Claimant in the Criminal Court of the City of New York, Kings County, Docket No. 2014KN018423. The Claimant was forced to appear and defend the false charges, which were maliciously and improperly made against him. On September 16, 2014 all the criminal charges against the Claimant were dismissed by the Criminal Court of the City of New York, Kings County, Part DV-1.

Respondents CITY failed to properly train Police Officers Avinash Surajbali, John Does Numbers "1" to "10" on proper police procedures, including how to handle warrantless arrests of individuals, the proper use of force for entry into a private dwelling and residence during an arrest, the obligation and manner to provide truthful information in police reports. Respondent Police Officers further failed to properly investigate and otherwise acted unreasonably in arresting and initiating criminal charges against the Claimant.

3. The time when, the place where and the manner in which the claim arose were as follows:

The Claim arose March 10, 2014 at approximately 4:00 p.m. to 4:30 p.m. at 55 Malta Street, Apt. 4B, Brooklyn, New York while Respondents arrested the Claimant's where he was staying at the time. Respondent Police Officers forcibly entered the apartment without the permission or consent of the Claimant, thereby breaking the door open. Upon information and belief, Respondents acted without a proper warrant,

During the course of that arrest, Respondents physically unnecessarily injured the Claimant due to unnecessary and unreasonable force. As a result of Respondents' conduct, the Claimant has further been placed in emotional freight and fear for his safety.

4. The items of damage or injuries claimed are (including dollar amounts):

The Claimant, BERNARD WASHINGTON suffered damages as a result of Respondents' conduct.

TOTAL AMOUNT CLAIMED:

BERNARD WASHINGTON

TWO MILLION (\$2,000,000.00) DOLLARS

Dated: New York, New York
October 30, 2014

Yours, etc.,

MATTHEW A. KAUFMAN, ESQ.


By: Matthew A. Kaufman

Attorney for Claimant

225 Broadway - Suite 1606

New York, NY 10007

Tel. No. (212) 619-2200

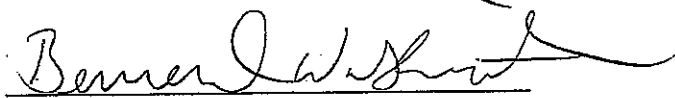
My File No. 15,452.301

VERIFICATION

STATE OF NEW YORK)
 : SS.:
COUNTY OF NEW YORK)

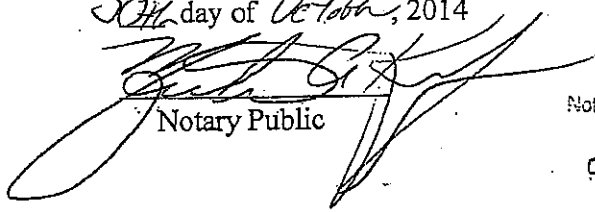
BERNARD WASHINGTON, being duly sworn, depose and say:

I am Claimant herein, I have read the foregoing Notice of Claim and know the contents thereof; and the same are true to my own knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those matters I believe it to be true.


BERNARD WASHINGTON

Sworn to before me the

30th day of *October*, 2014


Notary Public

MATTHEW A. KAUFMAN
Notary Public, State of New York
No. 02KA4723415
Qualified in Kings County
Commission Expires 12/31/

EXHIBIT “E”

CRIMINAL COURT OF THE CITY OF NEW YORK
PART ADAM COUNTY OF KINGS

STATE OF NEW YORK
COUNTY OF KINGS

THE PEOPLE OF THE STATE OF NEW YORK

v

BERNARD WASHINGTON

POLICE OFFICER AVINASH SURABHAI SHIELD NO. 30246, OF 075 COMMAND SAYS THAT ON OR ABOUT (1) MARCH 10, 2014 AT APPROXIMATELY 08:50 AM AT 676 ALABAMA AVENUE COUNTY OF KINGS, STATE OF NEW YORK,

THE DEFENDANT COMMITTED THE OFFENSE(S) OF:

PL 120.00(1) ASSAULT IN THE THIRD DEGREE (DOO)
PL 121.11(A) CRIMINAL OBSTRUCTION OF BREATHING OR BLOOD CIRCULATION (DOO)
PL 110/120.00(1) ATTEMPTED ASSAULT IN THE THIRD DEGREE (DOO)
PL 120.15 MENACING IN THE THIRD DEGREE (DOO)
PL 240.25(1) HARASSMENT IN THE SECOND DEGREE

AND THAT, ON OR ABOUT (2) MARCH 14, 2014 AT APPROXIMATELY 05:21 PM AT 56 WALTA STREET COUNTY OF KINGS, STATE OF NEW YORK,

THE DEFENDANT COMMITTED THE OFFENSE(S) OF:

PL 205.30 RESISTING ARREST

IN THAT THE DEFENDANT DID:

WITH INTENT TO CAUSE PHYSICAL INJURY TO ANOTHER PERSON, CAUSE SUCH INJURY TO SUCH PERSON OR TO A THIRD PERSON; WITH INTENT TO CAUSE PHYSICAL INJURY TO ANOTHER PERSON, ATTEMPT TO CAUSE SUCH INJURY TO SUCH PERSON OR TO A THIRD PERSON; BY PHYSICAL MEANS, INTENTIONALLY PLACE OR ATTEMPT TO PLACE ANOTHER PERSON IN FEAR OF DEATH, IMMINENT SERIOUS PHYSICAL INJURY OR PHYSICAL INJURY, WITH INTENT TO IMPEDE THE NORMAL BREATHING OR CIRCULATION OF THE BLOOD OF ANOTHER PERSON, APPLIED PRESSURE ON THE THROAT OR NECK OF SUCH PERSON; WITH INTENT TO HARASS, ANNOY OR ALARM ANOTHER PERSON, STRIKE, SHOVE, KICK OR OTHERWISE SUBJECT SUCH OTHER PERSON TO PHYSICAL CONTACT, OR ATTEMPT OR THREATEN TO DO THE SAME; INTENTIONALLY PREVENT OR ATTEMPT TO PREVENT A POLICE OFFICER OR PEACE OFFICER FROM EFFECTING AN AUTHORIZED ARREST OF HIMSELF OR ANOTHER PERSON.

THE SOURCE OF DEPOSENT'S INFORMATION AND THE GROUNDS FOR DEPOSENT'S BELIEF ARE AS FOLLOWS:

DEPOSENT IS INFORMED BY DOMINIQUE SHENGE THAT, AT THE FIRST ABOVE TIME AND PLACE, THE DEFENDANT DID PLACE BOTH OF DEFENDANT'S HANDS AROUND INFORMANT'S NECK AND APPLY PRESSURE AND DEFENDANT DID PUSH INFORMANT ABOUT INFORMANT'S FACE WITH DEFENDANT'S CLOSED FIST AND DEFENDANT DID PUSH INFORMANT ABOUT INFORMANT'S BODY INTO A GATE AT THE FIRST ABOVE-MENTIONED LOCATION.

THE DEPOSENT IS FURTHER INFORMED BY THE INFORMANT THAT THE ABOVE DESCRIBED ACTIONS CAUSED INFORMANT TO SUFFER SCRATCHES ABOUT INFORMANT'S NECK, TO SUFFER SUBSTANTIAL PAIN, TO FEAR FURTHER PHYSICAL INJURY AND TO BECOME ALARMED AND ANNOYED.

DEPOSENT FURTHER STATES THAT, AT THE SECOND ABOVE TIME AND PLACE, DEFENDANT DID ATTEMPT TO AVOID A LAWFUL ARREST BY REFUSING TO PUT DEFENDANT'S ARMS BEHIND DEFENDANT'S BACK WHILE DEPOSENT ATTEMPTED TO PLACE DEFENDANT IN HANDCUFFS.

FALSE STATEMENTS MADE IN THIS DOCUMENT ARE
PUNISHABLE AS A CLASS A MISDEMEANOR PURSUANT
TO SECTION 210.45 OF THE PENAL LAW.

3/19/14

SIGN

Printed 03/14/2014 23:21

K1402456

Attended 03/14/2014 17:22

EXHIBIT “F”

AH02
COUNTY: KINGS

CRIMS APPEARANCE HISTORY
APPEARANCE DATES

10/30/2014
8194

OPTION SELECTED: ALL APPEARANCES

NAME: WASHINGTON, BERNARD

CCN: [REDACTED] NYSID #: [REDACTED] L

DOCKET: 2014KN018423

ARREST #: [REDACTED]

09/16/2014 (OPEN)	DV1	JDG:TULLY, J	RPTR:REICH, NT DISM-30.30
07/15/2014 (OPEN)	DV1	JDG:HECHT, J	RPTR:DANN, NT C TOP
BC			
06/17/2014 (OPEN)	DV1	JDG:TULLY, J	RPTR:FORD, NT C TOP
BC			
05/06/2014 (OPEN)	DV1	JDG:HECHT, J	RPTR:EBANKS, NT C TOP
BC			
03/20/2014 (OPEN)	DV1	JDG:HECHT, J	RPTR:SCANAPICO, NT C TOP
\$2,000/\$1,000 (C)			

PF7/PF8 TO VIEW MORE APPEARANCES

COMMAND: MESSAGE:

AH02
COUNTY: KINGS

CRIMS APPEARANCE HISTORY
APPEARANCE DATES

10/30/2014
8194

OPTION SELECTED: ALL APPEARANCES

NAME: WASHINGTON, BERNARD

CCN: [REDACTED] K NYSID #: [REDACTED] L

DOCKET: 2014KN018423

ARREST #: [REDACTED]

03/15/2014 (OPEN) APAR3
\$2,000/\$1,000 (N)

JDG:TULLY, J

RPTR:ROSE, ARR:DV C TOP

PF7/PF8 TO VIEW MORE APPEARANCES

COMMAND: MESSAGE:

EXHIBIT “G”

CRIMINAL COURT OF THE CITY OF NEW YORK
COUNTY OF KINGS

THE PEOPLE OF THE STATE OF NEW YORK
VS

WASHINGTON, BERNARD
Defendant

[REDACTED]
Address

BROOKLYN NY
City State Zip

Docket Number: 2014KN018423

120.00 205.30 110-120.00 120.15 121.11 240.26
Arraignment Charges

CERTIFICATE OF DISPOSITION
NUMBER: 510763

[REDACTED]
Date of Birth

[REDACTED]
NYSID Number

03/14/2014
Date of Arrest/Issue

Summons No:

Case Disposition Information:

<u>Date</u>	<u>Court Action</u>	<u>Judge</u>	<u>Part</u>
09/16/2014	DISM - SPEEDY TRIAL PROVISIONS	TULLY, JANE C	DV1

SEALED

pursuant to Section 160.50 of the CPL

NO FEE CERTIFICATION

☐ GOVERNMENT AGENCY ☐ COUNSEL ASSIGNED

☐ NO RECORD OF ATTORNEY READILY AVAILABLE. DEFENDANT STATES COUNSEL WAS ASSIGNED

SOURCE ☐ ACCUSATORY INSTRUMENT ☐ DOCKET BOOK/CRIMS ☐ CRC3030[CRS963]

I HEREBY CERTIFY THAT THIS IS A TRUE EXCERPT OF THE RECORD ON FILE IN
THIS COURT.

ROTH, R [Signature]
COURT OFFICIAL SIGNATURE AND SEAL

10/30/2014
DATE

FEE: NONE

(CAUTION: THIS DOCUMENT IS NOT OFFICIAL UNLESS EMBOSSED WITH THE COURT
SEAL OVER THE SIGNATURE OF THE COURT OFFICIAL.)